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## NOTICE OF ALLOWANCE AND FEE(S) DUE

22463

7590

10/07/2009

SMART & BIGGAR  
438 UNIVERSITY AVENUE  
SUITE 1500, BOX 111  
TORONTO, ON M5G 2K8  
CANADA

EXAMINER

NGUYEN, DUSTIN

ART UNIT

PAPER NUMBER

2454

DATE MAILED: 10/07/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,430	06/02/2005	Tim Neil	93422-46	3156

TITLE OF INVENTION: WIRELESS COMMUNICATION DEVICE USE OF APPLICATION SERVER APPLICATIONS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	01/07/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** Mail **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
 or Fax **(571)-273-2885**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

22463 7590 10/07/2009

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## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/537,430 06/02/2005 Tim Neil 93422-46 3156

TITLE OF INVENTION: WIRELESS COMMUNICATION DEVICE USE OF APPLICATION SERVER APPLICATIONS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	01/07/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
NGUYEN, DUSTIN	2454	709-219000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_  
 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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EXAMINER

NGUYEN, DUSTIN

ART UNIT

PAPER NUMBER

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## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 578 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 578 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

# Notice of Allowability

## Application No.

10/537,430

## Examiner

DUSTIN NGUYEN

## Applicant(s)

NEIL ET AL.

## Art Unit

2454

### - The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 07/08/2009.
2. ☒ The allowed claim(s) is/are 2, 4-14, 17, 19-21 and 24, now renumbered as 1-17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

### THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/DUSTIN NGUYEN/  
Primary Examiner, Art Unit 2454

#### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/08/2009 has been entered.
2. The drawing(s) filed on 06/02/2005 is/are accepted by the Examiner.

#### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Applicants attorney, Mr. Peter Elyjiw, on 09/30/2009.

Please amend the claims as follows:

2. (currently amended) A method of enabling use of an application server application by a wireless communication device, the method comprising:

at a transaction server having two alternative modes of execution, the first mode being a clustered mode wherein the transaction server is scaled across multiple machines, the second mode being a non-clustered mode wherein the transaction server runs on a single machine:

on receipt of a given message from said wireless communication device for said application on said application server, queuing said given message on a queue for said application;

subsequent to said queuing, pushing said given message, and each message queued on said queue, toward a destination for said application of said application server, wherein said pushing comprises, for each message on said queue, dequeuing said each message from said queue and pushing said each message;

prior to said dequeuing and pushing, acquiring, via a locking mechanism, a lock for said destination on said application server, said lock preventing other use of said destination,

~~wherein a location of the locking mechanism is dependent upon whether said transaction server is executing in said clustered mode or said non-clustered mode~~ if said transaction server is executing in said clustered mode, said locking mechanism comprises a lock object on one of said multiple machines, said one machine being remote from a machine upon which said queuing and said pushing are performed, said one machine providing an interface to be used as a central lock provider by each of said multiple machines; and

wherein, if said transaction server is executing in said non-clustered mode, said locking mechanism comprises a lock object that is local to the single machine on which said transaction server runs.

10. (currently amended) The method of claim ~~22~~ 2 wherein said acquiring a lock comprises sending a lock request to said central lock provider.

17. (currently amended) A transaction server enabling use of at least one application server application by a wireless communication device, said transaction server having two alternative modes of execution, the first mode being a clustered mode wherein the transaction server is scaled across multiple machines, the second mode being a non-clustered mode wherein the transaction server runs on a single machine, the transaction server comprising:

a memory storing at least one queue, with one queue being provided for each of said at least one application on said application server;

a processor for, on receipt of a given message from said wireless communication device for a given application on said application server:

queuing said given message on a queue for said application;

subsequent to said queuing, pushing said given message, and each message queued on said queue, toward a destination for said application of said application server, wherein said pushing by said processor comprises, for each message on said queue, dequeuing said each message from said queue and pushing said each message;

prior to said dequeuing and pushing, acquiring, via a locking mechanism, a lock for said destination on said application server, said lock preventing other use of said destination,

~~wherein a location of the locking mechanism is dependent upon whether said transaction server is executing in said clustered mode or said non-clustered mode if said transaction server is~~  
executing in said clustered mode, said locking mechanism comprises a lock object on one of said multiple machines, said one machine being remote from a machine upon which said queuing and said pushing are performed, said one machine providing an interface to be used as a central lock provider by each of said multiple machines; and

wherein, if said transaction server is executing in said non-clustered mode, said locking mechanism comprises a lock object that is local to the single machine on which said transaction server runs.

21. (currently amended) A computer readable medium containing computer executable instructions for enabling use of an application server application by a wireless communication device, said computer executable instructions, when controlling a processor of a server, causing said server to:

effect one of two alternative modes of execution of a transaction server, the first mode being a clustered mode wherein the transaction server is scaled across multiple machines including said server, the second mode being a non-clustered mode wherein the transaction server runs on a single machine that is said server;

on receipt of a given message from said wireless communication device for said application on said application server, queue said given message on a queue for said application;



subsequent to said queuing, push said given message, and each message queued on said queue, toward a destination for said application of said application server, wherein said pushing comprises, for each message on said queue, dequeuing said each message from said queue and pushing said each message;

prior to said dequeuing and pushing, acquiring, via a locking mechanism, a lock for said destination on said application server, said lock preventing other use of said destination, wherein ~~a location of the locking mechanism is dependent upon whether said transaction server is executing in said clustered mode or said non-clustered mode~~ if said transaction server is executing in said clustered mode, said locking mechanism comprises a lock object on one of said multiple machines, said one machine being remote from a machine upon which said queuing and said pushing are performed, said one machine providing an interface to be used as a central lock provider by each of said multiple machines; and

wherein, if said transaction server is executing in said non-clustered mode, said locking mechanism comprises a lock object that is local to the single machine on which said transaction server runs.

22. (cancelled)

23. (cancelled)

24. (currently amended) The method of claim 1-2 wherein said locking mechanism provides locks for multiple application server applications.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

Applicant' arguments were persuasive, and the prior art, individual or in combination, fails to teach or suggest a method, system and program product for enabling use of an application server application by a wireless communication device, the method comprising: at a transaction server having two alternative modes of execution, the first mode being a clustered mode wherein the transaction server is scaled across multiple machines, the second mode being a non-clustered mode wherein the transaction server runs on a single machine: on receipt of a given message from said wireless communication device for said application on said application server, queuing said given message on a queue for said application; subsequent to said queuing, pushing said given message, and each message queued on said queue, toward a destination for said application of said application server, wherein said pushing comprises, for each message on said queue, dequeuing said each message from said queue and pushing said each message; prior to said dequeuing and pushing, acquiring, via a locking mechanism, a lock for said destination on said application server, said lock preventing other use of said destination, wherein if said transaction server is executing in said clustered mode, said locking mechanism comprises a lock object on one of said multiple machines, said one machine being remote from a machine upon which said queuing and said pushing are performed, said one machine providing an interface to be used as a

central lock provider by each of said multiple machines; and wherein, if said transaction server is executing in said non-clustered mode, said locking mechanism comprises a lock object that is local to the single machine on which said transaction server runs (Figures 3, 11a, 11b; and specification pages 8, 9, 16, 17, 19, and 27).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUSTIN NGUYEN whose telephone number is (571)272-3971. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1519. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DUSTIN NGUYEN/  
Primary Examiner, Art Unit 2454